

224291

**BEFORE THE**  
**SURFACE TRANSPORTATION BOARD**

---

**FINANCE DOCKET NO. 35087**

**CANADIAN NATIONAL RAILWAY COMPANY  
AND GRAND TRUNK CORPORATION**

**-CONTROL-**

**EJ&E WEST COMPANY**

---

**PETITION FOR STAY OF WILL COUNTY, ILLINOIS**

**EXPEDITED TREATMENT REQUESTED**

**MARY M. TATROE**  
Will County State's Attorney's Office  
121 North Chicago  
Joliet, IL 60432  
(815) 727-8872  
(815) 727-6085 fax  
[mtatroe@willcountyillinois.com](mailto:mtatroe@willcountyillinois.com)

**EDWARD R. GOWER**  
Special Assistant Will County State's Attorney  
Hinshaw & Culbertson LLP  
400 South Ninth, Suite 200  
Springfield, IL 62701  
(217) 528-7375  
(217) 528-0075 Fax  
[egower@hinshawlaw.com](mailto:egower@hinshawlaw.com)

*Counsel for Will County, Illinois*

Dated: January 5, 2009

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**FINANCE DOCKET NO. 35087**

**CANADIAN NATIONAL RAILWAY COMPANY  
AND GRAND TRUNK CORPORATION**

**-CONTROL-**

**EJ&E WEST COMPANY**

---

**PETITION FOR STAY OF WILL COUNTY, ILLINOIS  
EXPEDITED TREATMENT REQUESTED**

Will County, Illinois ("Will County"), pursuant to 49 C.F.R §1115, 3(F), petitions the Surface Transportation Board ("STB" or "Board") to stay the effective date of Decision No. 16 in the above-captioned proceeding pending ruling on any petitions for reconsideration, judicial review, and compliance with the National Environmental Policy Act, 42 U.S.C. §4321, *et seq.* ("NEPA"). The Village of Barrington, Illinois ("Barrington") has filed the Petition for Stay of the Village of Barrington, Illinois (BARR-7) in which Barrington has persuasively articulated the facts and reasons why a stay is warranted, and why each of the elements required for a stay are present in this case. Rather than repeat the facts and arguments made by Barrington in its stay petition, Will County adopts and incorporates them by reference in support of its petition for a stay.

In addition to the arguments made by Barrington concerning irreparable harm generally and specifically with respect to Barrington if the stay petition is not granted and the proposed acquisition occurs, Will County also will suffer specific irreparable environmental harm. The Elgin, Joliet and Eastern Railway Company (EJ&E") lines run from the Wisconsin border

through densely populated communities in Illinois in Lake County, northwest Cook County, DuPage County, Will County, and southern Cook County, and then into densely populated areas in Indiana. In Will County, the EJ&E effectively bisects Will County. There are 52 public at grade crossings in Will County involving the EJ&E, with 38 of those on the mainline. See Opening Memorandum of Will County (WILL-5) at 2-3 and Ex. 2 thereto at ¶7. Rail traffic in Will County from the East Joliet Yard northward is projected to grow from 18 to 45 trains daily, and rail traffic from the East Joliet Yard south to the county border is projected to grow from 6 to 28 trains daily. *Id.* at 3 and Ex. 1 thereto at ¶7. The increase in hazardous materials carried on those lines is projected to grow by approximately 700 percent. Railroad Control Application (CN-2) at 247, Attachment A-2. Will County has a population in excess of 700,000 people. Opening Memorandum of Will County (WILL-5) at 2 and Ex. 1 thereto at ¶5.

The environmental impact and harm resulting from the proposed enormous increase in train traffic in Will County was the subject of extensive discussion in the STB's environmental analyses. See generally, Draft Environmental Impact Statement, STB Finance Docket No. 35087 (July 25, 2008) (DEIS"), Table 2-9, Summary of Potential Environmental Impacts due to Change in Rail Operations at 2-71 to 2-78; DEIS, Table 2-11, Summary of Potential Environmental Impacts – Joliet Connection at 2-86 to 2-89; DEIS, Table 2-15 Summary of Potential Environmental Impacts – Kirk Yard Connections at 2-103 to 2-104; DEIS, Table 2-16, Summary of Potential Impacts – Double Track, at 2-105 to 2-109. The specific analyses of environmental impacts on and harm to individual Will County communities and Will County residents are sprinkled liberally throughout the analyses for Chapter 4 of the DEIS, which describes the environmental consequences of the proposed transaction in diverse areas such as at-grade crossings; increased hazardous waste spillage risks; transportation systems; hazardous waste

sites; land use; socioeconomics and environmental justice; air quality, noise; and vibration; and biological, water and cultural resources. The fact that irreversible harm will occur in Will County if the proposed acquisition is allowed to proceed is noncontrovertible.

For all the reasons set forth above, and in Barrington's stay petition, the effective date of Decision No. 16 should be stayed pending ruling on any such petitions for reconsideration, judicial review and compliance with NEPA.

Respectfully submitted,  
WILL COUNTY, ILLINOIS

By: Edward R. Gower  
EDWARD R. GOWER  
Special Assistant Will County State's Attorney

MARY M. TATROE  
Will County State's Attorney's Office  
121 North Chicago  
Joliet, IL 60432  
(815) 727-8872  
(815) 727-6085 fax  
[mtatroe@willcountyllinois.com](mailto:mtatroe@willcountyllinois.com)

Counsel for Will County, Illinois

Dated: January 5, 2009

EDWARD R. GOWER  
Special Assistant Will County State's Attorney  
Hinshaw & Culbertson LLP  
400 South Ninth, Suite 200  
Springfield, IL 62701  
(217) 528-7375  
(217) 528-0075 Fax  
[egower@hinshawlaw.com](mailto:egower@hinshawlaw.com)

Counsel for Will County, Illinois


**CERTIFICATE OF SERVICE**

I hereby certify that on January 5, 2009, I caused the foregoing Will County's Petition for Stay to be served via first class mail, postage prepaid, or by a more expeditious method of delivery on all parties of record and on the following:

Paul A. Cunningham  
Harkins Cunningham LLP  
1700 K Street N.W., Suite 400  
Washington, D.C. 20006-3804

Secretary of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

Attorney General of the United States  
c/o Assistant Attorney General  
Antitrust Division, Room 3109  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

  
\_\_\_\_\_  
Edward R. Gower

# **STB Finance Docket No. 35087**

## **PARTIES OF RECORD**

Terence M. Hynes  
Sidley Austin LLP  
1501 K Street, N.W.  
Washington, DC 20005

Randal W. Jessen  
Superintendent of Public Improvements  
Village of Plainfield - Public Works  
24401 W Lockport Street  
Plainfield, IL 60544

Honorable Carolyn H. Krause  
Illinois House of Representatives  
200 E Evergreen, Suite 122  
Mt. Prospect, IL 60056

John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W. Suite 350  
Washington, DC 20006

John G. Tolomei  
Village Administrator  
Village of Lake Zurich  
70 E Main Street  
Lake Zurich, IL 60047

Peter J. Shultz  
Federal Regulation &  
Washington General Counsel  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202

Steven Quigley  
Will County Governmental League  
50 E Jefferson Street Suite 101  
Joliet, IL 60432

Paul Samuel Smith  
U S Department of Transportation  
1200 New Jersey Avenue, S.E.  
Room W94-316 C-30  
Washington, DC 20590

John Casper  
Oshkosh Chamber of Commerce  
120 Jackson Street  
Oshkosh, WI 54901

Michael S. Wolly  
7werding, Paul, Kahn & Wolly P.C.  
1025 Connecticut Avenue, N.W. Suite 712  
Washington, DC 20036

Honorable Jesse L. Jackson, Jr.  
United States House of Representatives  
2419 Rayburn House Office Building  
Washington, DC 20515

L. Charles Lukmann, III  
Harris Welsh & Lukmann  
107 Broadway  
Chesterton, IN 46304

Honorable Richard G. Lugar  
United States Senate  
306 Hart Senate Office Building  
Washington, DC 20510

Thomas F. McFarland  
Thomas F. McFarland, P.C.  
208 South LaSalle Street Suite 1890  
Chicago, IL 60604

Mark H. Sidman  
Wenner Brodsky Sidman Kider P.C.  
1300 19<sup>th</sup> Street, N.W.  
Fifth Floor  
Washington, DC 20036

David C. Olson  
Minnesota Chamber of Commerce  
400 Robert Street North  
Suite 1500  
St. Paul, MN 55101

Karl B. Browning  
Indiana Department of Transportation  
100 North Senate Avenue Room N758  
Indianapolis, IN 46204

Paul Guthrie  
Canadian Pacific Railway Company  
401<sup>st</sup> Avenue, S.W.  
Gulf Canada Square, Suite 500  
Calgary, Alberta T2P 4ZA CD

Andrew Lisak  
The Development Association  
1401 Tower Avenue, Suite 302  
Superior, WI 54880

Harold A. Ross  
Brotherhood of Locomotive Engineers and Trainmen  
1370 Ontario Street, Mezzanine  
Cleveland, OH 44113

Neil Volmer  
Iowa Department of Transportation  
800 Lincoln Way  
Ames, IA 50010

Donald C. McCrory  
Memphis and Shelby County Port Commission  
1115 Riverside Blvd.  
Memphis, TN 38106

Paul A. Cunningham  
Harkins Cunningham LLP  
1700 K Street, NW, Suite 400  
Washington, DC 20006

Timothy A. Brown  
Town of Merrillville  
7820 Broadway  
Merrillville, IN 46410

Kevin M. Sheys  
Kirkpatrick & Lockhart Preston Gates Ellis LLP  
1601 K Street, N.W.  
Washington, DC 20006

Timothy R. Sheehy  
Metropolitan Milwaukee  
Association of Commerce  
756 North Milwaukee Street, Suite 400  
Milwaukee, WI 53202

W. James Wochner  
The Kansas City Southern Railway Company  
427 West 12<sup>th</sup> Street  
Kansas City, MO 64121

Honorable Peter J. Visclosky  
United States House of Representatives  
701 East 83<sup>rd</sup> Avenue, Suite 9  
Merrillville, IN 46410

Alan Anderson  
Southern Wayne County Regional Chamber  
20600 Eureka Road, Suite 315  
Taylor, MI 48181

Chris Curry  
Gary/Chicago International Airport Authority  
6001 W. Industrial Highway  
Gary, IN 46406

John Sobonk  
Wisconsin Department of Transportation  
4802 Sheboygan Avenue, Room 11 5B  
P.O. Box 7910  
Madison, WI 53707

William A. Mullins  
Baker & Miller PLLC  
2401 Pennsylvania Avenue, N.W.  
Suite 300  
Washington, DC 20037

Joseph Reitemeier  
Fond du Lac Area Chamber of Commerce  
207 North Main Street  
Fond du Lac, WI 54935

Honorable Melissa L. Bean  
United States House of Representatives  
512 Cannon House Office Building  
Washington, DC 20115

Thomas R. Anderson  
Save the Dunes Council Inc.  
444 Barker Rd  
Michigan City, IN 46360

Katherine Dodds  
Aux Sable Liquid Products, Inc.  
6155 East IIS Route 6  
Morris, IL 60450

Stanley Dobosz  
Town of Griffith  
111 N. Broad Street  
Griffith, IN 46319

Dennis H. Miller  
Iowa Interstate Railroad Ltd.  
5900 6<sup>th</sup> Street, S.W.  
Cedar Rapids, IA 52404

Timothy A. Baldermann Mayor  
Village of New Lenox  
1 Veterans Parkway  
New Lenox, IL 60451

Gordon P. MacDougall  
1025 Connecticut Avenue, N.W.  
Washington, DC 20036

Joseph P. Clary  
Illinois Department of Transportation  
Division of Public and Intermodal Transportation  
300 W. Adams, 2<sup>nd</sup> Floor  
Chicago, IL 60606

Richard Harnish  
Midwest High Speed Rail Association  
P.O. Box 805877  
Chicago, IL 60680

**Eileen Phipps**  
Village of Wayne  
5N430 Railroad Street  
P O Box 532  
Wayne, IL 60184

**John A. Lobato**  
Village of Mundelein  
440 East Hawley Street  
Mundelein, IL 60060

**Honorable Thomas McDermott, Jr**  
c/o City of Hammond  
5925 Calumet Avenue  
Hammond, IN 46320

**John Mezera City of Joliet**  
150 West Jefferson Street  
Joliet, IL 60432

**Cameron Moore**  
Champaign County Regional Planning Commission  
1776 East Washington Street  
P O. Box 17760  
Urbana, IL 61803

**Rod Nilsestuen**  
Department of Agriculture,  
Trade and Consumer Protection  
2811 Agriculture Drive  
P O Box 8911  
Madison, WI 53708

**Luann Hamilton**  
Chicago Department of Transportation  
30N. LaSalle Street, Suite 500  
Chicago, IL 60602

**Robert W. Baker**  
Village of Trout  
P O Box 621  
Cary, IL 60013

**David Cline**  
Mayor, City of Mattoon  
208 North 19<sup>th</sup>  
Mattoon, IL 61938

**Meleah Geertsma**  
Environmental Law & Policy Center  
35 East Wacker Drive, Suite 1300  
Chicago, IL 60601

**Brad Cole**  
Mayor, City of Carbondale, Illinois  
200 South Illinois Avenue  
P O Box 2047  
Carbondale, IL 62902

**Kelvin J Dowd Slover & Loftus**  
1224 Seventeenth Street, NW  
Washington, DC 20036

**Joseph W. Werner**  
Village of Mokena  
11004 Carpenter Street  
Mokena, IL 60448

**Honorable Pamela J. Althoff**  
Illinois State Senate  
One North Virginia Street  
Crystal Lake, IL 60014

**Bruce A. Knight**  
City of Champaign Planning Department  
102 North Neil Street  
Champaign, IL 61820

**Richard Greene**  
Naperville Area Chamber of Commerce  
55 South Main Street  
Naperville, IL 60540

**Morgan B. Johnston**  
University of Illinois at Urbana-Champaign  
Physical Plant Services Building  
1501 South Oak Street  
Champaign, IL 61820

**Marcie Schatz**  
Director of TED Business Group  
City of Naperville  
400 S. Eagle Street  
Naperville, IL 60540

**Gary D. Adams**  
Village Administrator  
Village of Oswego  
113 Main Street  
Oswego, IL 60543

**John Eichelberger, Fire Chief**  
Plainfield Fire Protection District  
15025 S. Desplantes Street  
Plainfield, IL 60014

**Laura E. Weis**  
Champaign County Chamber of Commerce  
1817 S. Neil Street, Suite 201  
Champaign, IL 61820

**Honorable Evan Bayh**  
United States Senate  
131 Russell Senate Office Building  
Washington, DC 20510



**Michael J. Van Poucke**  
The Macom Corporation  
3380 Lacrosse Lane, Suite 100  
Naperville, IL 60564

**Honorable Karen A. Yarbrough**  
Illinois House of Representatives  
272 - Stratton Building  
Springfield, IL 62706

**Mark L. Fowler**  
Northwest Municipal Conference  
1616 East Golf Road  
Des Plaines, IL 60016

**Honorable Janice D. Schakowsky**  
United States House of Representatives  
1027 Longworth House Office Building  
Washington, DC 20515

**Randall S. Blankenhorn**  
Chicago Metropolitan Agency for Planning  
233 South Wacker Drive, Suite 800,  
Sears Tower Chicago, IL 60606

**Honorable Angelo Saviano**  
Illinois House of Representatives  
314 State House  
Springfield, IL 62706

**Anthony Arredia, Mayor**  
City of Des Plaines  
1420 Miner Street  
Des Plaines, IL 60016

**Honorable Elaine Nekritz**  
Illinois House of Representatives  
24 South Des Plaines River Road, Suite 400  
Des Plaines, IL 60016

**A. George Pradel, Mayor**  
City of Naperville  
400 S. Eagle Street  
Naperville, IL 60540

**Robert J. Schillerstrom, Chairman**  
DuPage County Board  
421 N. County Farm Road  
Wheaton, IL 60187

**Honorable Debbie Stabenow**  
United States Senate  
133 Hart Senate Office Building  
Washington, DC 20510

**Honorable Joe Knollenberg**  
United States House of Representatives  
2349 Rayburn House Office Building  
Washington, DC 20515

**Craig Thompson**  
Transportation Development Association of Wisconsin  
131 W. Wilson Street, Suite 302  
Madison, WI 53703

**Brian McCarthy**  
ArcelorMittal USA Inc.  
One Dearborn Street  
Chicago, IL 60603

**Jamie Bowden**  
Village Administrator  
Village of Channahon  
24555 S. Navajo Drive  
Channahon, IL 60410

**Steven Bosco** Village of Bartlett  
228 S. Main Street  
Bartlett, IL 60103

**Stan Wojtasiak** Naperville Township  
31 W 331 North Aurora Road  
Naperville, IL 60563

**Anna Montana, Mayor**  
Village of Schiller Park  
9526 West Irving Park Road  
Schiller Park, IL 60176

**David Rosa, President**  
Duluth Area Chamber of Commerce  
5 West First Street, Suite 101  
Duluth, MN 55802

**Honorable Mike Fortner**  
Illinois House of Representatives  
135 Fremont Street  
West Chicago, IL 60185

**Daniel R. Elliott, III**  
United Transportation Union  
14600 Detroit Avenue  
Cleveland, OH 44107

**Joseph J. Plaistow**  
L.E. Peabody & Associates, Inc.  
1501 Duke Street, Suite 200  
Alexandria, VA 22314

**Honorable Carl Levin**  
United States Senate  
269 Russell Senate Office Building  
Washington, DC 20510

**Honorable Thaddeus McCotter**  
United States House of Representatives  
1632 Longworth House Office Building  
Washington, DC 20515

Honorable William E. Peterson  
Illinois State Senate  
3050 North Main Street  
Buffalo Grove, IL 60089

Steve Greenberg  
4730 Westbury Drive  
Long Grove, IL 60047

Honorable Candice S. Miller  
U.S. House of Representatives  
228 Cannon House Office Building  
Washington, DC 20515

Rodney W. Kreunen  
Wisconsin Railroad Commissioner  
610 N. Whitney Way  
P.O. Box 8968  
Madison, WI 53708

Honorable Terry Link  
Illinois State Senate  
321 State Capitol Building  
Springfield, IL 62706

George W. Mayo, Jr.  
Hogan & Hartson LLP  
555 Thirteenth Street, NW  
Washington, DC 20004

Nicholas J. DiMichael  
Thompson Hine LLP  
1920 N. Street, N.W., Suite 800  
Washington, DC 20036

Thomas F. DeGiulio  
Town of Munster  
1005 Ridge Road  
Munster, IN 46321

Maurice Gratton  
PGAC Shippers' Group  
800, 717-7<sup>th</sup> Avenue SW  
Calgary, Alberta T2P 0Z3

Becky Barnhart  
5327 Cedar Drive  
Naperville, IL 60564

Paul Hayes  
One Town Square  
Dyer, IN 46311

Edward W. Paesel  
South Suburban Mayors & Managers Association  
1904 W. 174<sup>th</sup> Street  
East Hazel Crest, IL 60429

William H. Brumm  
Village of Buffalo Grove  
50 Raupp Boulevard  
Buffalo Grove, IL 60089

Honorable Tim Walberg  
U.S. House of Representatives  
325 Cannon House Office Building  
Washington, DC 20515

Honorable Mark Beaubien  
Illinois House of Representatives  
314 State House  
Springfield, IL 62706

Gerald J. Roper  
Chicagoland Chamber of Commerce  
200 E. Randolph Street, Suite 2200  
Chicago, IL 60601

Thomas and Patricia Wichlinski  
1033 N. Broad Street  
Griffith, IN 46319

John M. Scheib  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA 23510

Timothy J. Sanders  
Northwest Indiana Regional Development Authority  
9800 Connecticut Drive  
Crown Point, IN 46307

Honorable Michael W. Tryon  
State Representative  
1 N. Virginia Street  
Crystal Lake, IL 60014

Honorable Robert A. Rita  
Illinois House of Representatives  
4818 W. 137<sup>th</sup> Street, Suite 2  
Crestwood, IL 60445

Honorable John M. Shimkus  
U.S. House of Representatives  
2452 Rayburn House Office Building  
Washington, DC 20515

Don A. De Graff, Mayor  
Village of South Holland  
16226 Wausau Avenue  
South Holland, IL 60473

Terri Blackmore  
Washtenaw Area Transportation Study  
705 North Zeeb Road, 2<sup>nd</sup> Floor  
Ann Arbor, MI 48103

**Alayne M. Weingartz**  
**Corporation Counsel City of Aurora**  
**44 East Downer Place**  
**Aurora, IL 60507**

**John D. Tomaszski, City Administrator**  
**City of Crest Hill**  
**1610 Plainfield Road**  
**Crest Hill, IL 60403**

**Hildy L. Kingma**  
**Village Hall**  
**350 Victory Drive**  
**Park Forest, IL 60466**

**Jery G. Arthur**  
**Supply Chain Management Consultant**  
**833 Shoreline Road**  
**Lake Barrington, IL 60010**

**George W. Mayo, Jr.**  
**National Railroad Passenger Corporation**  
**555 Thirteenth Street, NW, Columbia Square**  
**Washington, DC 20004**

**Adrian L. Steel, Jr**  
**Mayer Brown LLP**  
**1909 K Street, N.W**  
**Washington, DC 20006**

**Honorable Susan Garrett**  
**Illinois State Senate**  
**129 Capitol Building**  
**Springfield, IL 62706**

**Ross B. Capon**  
**National Association of Railroad Passengers**  
**900 Second Street, NE, Suite 308**  
**Washington, DC 20002**

**Steven L. Matriach**  
**Office of Transportation Counsel**  
**Illinois Commerce Commission**  
**527 East Capitol Avenue**  
**Springfield, IL 62701**

**Erik Kotewa, Deputy Director**  
**Champaign County EDC**  
**1817 S. Neil Street**  
**Champaign, IL 61820**

**David M. Austgen**  
**Town of Schererville**  
**Lake County, Indiana**  
**130 North Main Street**  
**Crown Point, IN 46307**

**John W. Gohmann**  
**Small Railroad Business Owners of America**  
**508 Cleveland Avenue North**  
**St Paul, MN 55144**

**Honorable John D. Dingell**  
**U.S. House of Representatives**  
**2328 Rayburn House Office Building**  
**Washington, DC 20515**

**Eric L. Hirschhorn**  
**Winston & Strawn LLP**  
**1700 K Street, N.W.**  
**Washington, DC 20006**

**Michael L. Rosenthal**  
**Covington & Burling LLP**  
**1201 Pennsylvania Avenue, N.W**  
**Washington, DC 20115**